

Arizona State Board for Charter Schools

October 14, 2003

South Pointe Public Charter School

8325 South Central Avenue

Phoenix, AZ 85042

MINUTES

Members Present

Onnie Shekerjian – President
Kurt Davis – Vice President
Mary Gifford – Superintendent’s Designee
George Abarca - Public Member
Mary Lynn Kelly - Business Member
Sally Kur – Public Member
Cassandra Larsen - Public Member
Kimberly Mosher - Public Member
Paul Smiley - Business Member

Members Absent

Senator Linda Aguirre - Advisory
Representative John Huppenthal - Advisory
Representative Ted Carpenter - Advisory

Meeting began at 9:04 AM

Agenda Item A—Pledge of Allegiance

Agenda Item B—Moment of Silence

Agenda Item C—Roll Call: Traci Sawyer-Sinkbeil called the roll and confirmed a quorum.

Agenda Item D—Presentation— Dr. William Coats, South Pointe Charter High School

Dr. Coats extended a warm welcome to all board members. He provided a brief background on the history of Leona Group and the prospects of the near future. He introduced his team leaders and invited the members of the Board to visit any location at any time.

Agenda Item E— Presentation to Cookie Goddard

President Shekerjian expressed the Board’s appreciation for Cookie Goddard’s service. A plaque was presented and Ms. Goddard expressed thanks to the Board and staff. She also stated she was thrilled that Cassandra Larsen took her place on the Board.

Agenda Item F-- Superintendent’s Report

No report given.

Agenda Item G-- Executive Director’s Report

1. Kristen Jordison reported on the status of applications that were received for FY 2004-2005. Of the 27 applications received, 8 were deemed incomplete and thus will not move forward in the process. These

applicants are eligible to reapply next cycle. Nineteen applications have been forwarded to the Technical Review Panel for review. The panel will meet on October 16th & 17th. If, after the review, the application meets or exceeds the expectation in each scorable area the application will be presented to the Board at the November meeting. If the application does not meet this standard they will be given the opportunity to use the scorer's comments as technical assistance and given 20 days to revise and re-submit. These revised applications will be re-reviewed and brought forward if they meet the standard to the January Board meeting.

2. Kristen gave an update on the Superintendent's focus group regarding the testing option. Ruth Solomon, on behalf of the Superintendent, brought together a group of individuals to evaluate different options for the administration of a standardized test that produces norm-reference scores to help determine what will best serve the interests of all stakeholders. The group raised the following concerns: timely feedback, role in school improvement, contribution to accountability, current use, possible use, and the need for sufficient information to make use of the data.

3. Kristen informed the Board the hearing regarding the Auditor General's Sunset & Performance Audit will be heard before the Committee of Reference on October 30th at 9:00 am in Senate Hearing Room 1.

4. Kristen briefed the Board on the budget request of \$250, 000 to develop a more robust accountability database. This database will enable staff to better track information systematically and over time. This will help provide greater oversight and track follow-up. The Board stated that the staff should not fear going back to JLBC and OSPB if more money is necessary to appropriately oversee the schools.

5. Kristen informed the Board that 15 site visits have recently been conducted. Meetings with ADE, School Finance have been occurring every two weeks with regular follow-up on payment issues and reports. Kristen also pointed out that 4 schools have already submitted their FY 03 annual audit. They are Compass High School, Desert Technology, Khalsa Family Services, Phoenix Education Management, and TLC Charter Schools Inc.

6. Kristen introduced Andrea Leder to the Board as a new member of the staff. Andrea's background includes journalism, legislative duties, and performance auditing.

Agenda Item H. Consent Agenda —

1. Educational Impact, Inc. dba Academy

Adventures—Change in legal status of the Charter Operator.

Mary Ann Penczar, charter representative, answered questions from the Board. She stated she would have the documentation faxed over for the Board for approval.

Mary Lynn Kelly requested the consent agenda item be tabled until clarification had been received regarding the structure of the corporate board vs. governing board.

The school provided additional documentation.

MOTION

Motion made by Mary Gifford to approve the consent agenda. Motion seconded by Kimberly Mosher.

Motion passes unanimously

Agenda Item I. Presentation- Arizona Learns

Summary information from the ADE was provided to each Board member in the Board packet. Kristen reminded the Board that Arizona Learns labels would be released on October 15th. This is the second year schools were labeled under Arizona Learns. The formula is different this year from last however similar components are used. The labels for K-8 schools relies on AIMS and MAP scores for students who have been enrolled for one year; 9-12 labels are based on AIMS scores, graduation rate, and dropout rate. This accountability system established a set of consequences for school improvement that is the responsibility of the Department of Education. Charter schools will receive their first Arizona Learns label in their 4th year of operation. If a school is labeled underperforming they must submit a school improvement plan as adopted by the ADE. The school improvement plans will be presented to the public at the Board's February meeting.

The Board discussed the timeframes of accountability for charter schools. Additionally, the Board expressed concern about holding schools accountable that are not labeled due to small school size. President Shekerjian stated that she felt the Board should be pro-active on academic accountability and thus suggested the creation of a Board sub-committee to review these issues and present the Board with a proposal on a future agenda. The President selected Kimberly Mosher, George Abarca, and Mary Gifford to serve on this committee.

Mike Kayes stated that Association members have been discussing this issue and would like to be at the table to discuss this with the Board.

Agenda Item J. Discussion and possible action on request to transfer charter from the State Board of Education:

1. Kachina Country Day School
2. Mexicayotl Academy
3. Triumphant Learning Center

Kristen informed the Board that the above schools had submitted a complete application and their charter contracts were in compliance.

MOTION

Motion made by Kurt Davis to approve the transfer of **Kachina Country Day School, Mexicayotl Academy, and Triumphant Learning Center**. Motion seconded by Mary Gifford.

Motion passes unanimously

Agenda Item K-- Action Items

1. **Capitol High School**—Discussion and possible action on request to place a hold on the charter for one year with the intent to re-open for school year 2004-2005.

Mary Gifford requested this item be tabled until next board meeting.

Order of the Agenda Changed

3. **Casa Blanca Middle School**—The Board will receive information to determine whether evidence exists that Casa Blanca Middle School is in breach of one or more provisions of its charter contract, federal, state, or local laws regarding the annual audit.

No action taken.

Kristen informed the Board the school submitted their annual financial audit on October 9th and the 10% withholding of monthly apportionment will be restored.

5. **Laurent Clerc**—The Board will receive information to determine whether evidence exists that Laurent Clerc is in breach of one or more provisions of its charter contract, federal, state, or local laws regarding its failure to provide educational services.

Kristen presented background information regarding Laurent Clerc. Laurent Clerc began operation in the Fall of 1996 for approximately 35 students in grade K-3. Due to their small size any fluctuation in their student count impacted them greatly. In the fall of 2002 the school made the decision that it would be unable to operate with the student count that they anticipated. The school did not operate in FY 2002-2003. In October of 2002 I received a letter that stated that the school was in the process of reorganizing and would like the option to re-open in 2003-2004. Kristen responded to the school with a request for repayment of state aid and a requested submission of various reports for the Department of Education. In May of 2003 Kristen received a letter from the school's attorney that stated that the school did not feel there was sufficient support to continue the operation of Laurent Clerc and they wished to relinquish their charter contract. The attorney stated that he did not believe there was a legal basis for the request of the return of funds. In June of 2003 Kristen responded to the school's attorney. Kristen requested a letter for surrender signed by the charter representative and requested the repayment of funds owed to the State.

MOTION

Motion made by Mary Gifford to issue a Notice of Intent to Revoke the charter of **Laurent Clerc** for failure to provide educational services in accordance with the conditions of the charter contract. The Board orders that a hearing be scheduled with the Office of Administrative Hearings and that the school return all funds owed to the State immediately and recognizes that the staff have pursued collection of the monies owed through the established process with the Department of Education and the Attorney General's office. Motion seconded by Kurt Davis.

Motion passes unanimously

6. ReInventEd—The Board will receive information to determine whether evidence exists that ReInventEd is in breach of one or more provisions of its charter contract, federal, state, or local laws regarding its failure to provide educational services.

Kristen presented background information regarding ReInventEd. ReInventEd began operation in the fall of 2002. The school served 22 students in grades 9-12 in FY 2003 and reported 22 students on their estimated enrollment for FY 2004. The school failed to properly administer the AIMS HS Writing test in February 2003. Multiple attempts to contact the school regarding their closure failed.

4. Future Development Education and Performing Arts Academy

—The Board will receive information to determine whether evidence exists that Future Development Education and Performing Arts Academy is in breach of one or more provisions of its charter contract, federal, state, or local laws regarding the annual audit, state retirement, Industrial Commission, and Internal Revenue Service.

Kristen presented background information regarding Future Development Education and Performing Arts Academy.

In April 2003 the Board was notified that the school failed to submit its fiscal year 2002 audit by March 31, 2003. The Board voted to withhold 10% of the monthly state aid until the school came back into compliance. The school has still not submitted this audit. Pursuant to Board policy, any school that has failed to correct the deficiencies that resulted in a 10% withholding within 6 months shall be brought before the board to be considered for issuance of a notice of intent to revoke the charter.

Future Development is authorized to participate in the Arizona State Retirement System and has submitted a supplemental retirement plan for the employees of Future Development. Future Development became obligated to pay State Retirement employer and employee contributions respecting employees who were covered by the plan. Under statute employer and employee contributions become delinquent after the 14th calendar day after the last day of each applicable payroll period. Under statute State Retirement has the authority to request withholdings of state funds for payments owed to State Retirement

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MOTION

Motion made by Kurt Davis to issue a Notice of Intent to Revoke the charter of **ReInventEd** by failing to properly administer the AIMS HS writing test in February 2003 and failing to provide educational services in accordance with the conditions of their charter contract. The Board orders that a hearing be scheduled with the Office of Administrative Hearings, that the school return all funds owed to the State immediately and requests that the staff pursue collection of the monies owed through the established process with the Department of Education and the Attorney General's office; and that the school provide each former student with a sealed copy of their transcripts and a copy of all student transcripts and provide a current mailing list of all parents to the office of the Charter School Board within 10 days. Motion seconded by Mary Gifford.

Motion passes unanimously

MOTION

Motion made by Kurt Davis to issue a Notice of Intent to Revoke the charter of **Future Development Education and Performing Arts Academy** for failure to submit the fiscal year ending 2002 annual audit and questionnaire, failing to follow the statutory requirements for Arizona State Retirement & the Industrial Commission for Workers Compensation Insurance, and failing to follow the regulations of the Internal Revenue Service. The Board orders the following:

- that a hearing will be scheduled with the Office of Administrative Hearings.
- that within seven days of receipt of the Notice the School shall inform, in writing, all staff and all parents of students enrolled in the School that a Notice of Intent to Revoke the School's Charter has been filed, the School location at which a copy of the Notice may, upon request, be inspected, and the date, time, and location of the hearing set in this matter. The School shall within fourteen days of receipt of the Notice provide a copy of the letter to the staff of the Board.

The Board further orders that the findings above be added to the issues for which 10% has been withheld and that the 10% withholding continue until such time as compliance is achieved in all areas. Motion seconded by Mary Gifford.

Motion passes unanimously

so that they may credit the employees of the school with the service that they are entitled to have credited to them and to provide the long term disability coverage to which they are entitled. Future Development has repeatedly failed to comply with statutory requirements.

The Department of Education received a Notice of Levy from the Internal Revenue Service in May 2003 for failure to pay employee withholdings and unemployment. This initial levy requested that a portion of the monthly allocation of state aid be withheld from the school and submitted to the IRS. A new levy was received in late September that requests that all of the funding be withheld and diverted to the IRS. The levies indicate payments owed from 1998 – 2003.

The School has failed to provide the Industrial Commission with evidence that it has Workers Compensation Insurance. This is a violation of state law.

The school is on programmatic hold for 2002 State Chemical Abuse and on programmatic hold for 2003 Title IV Safe and Drug Free.

Board takes a break from 11:00 am to 11:17 am

2. Omega Alpha Academy—Discussion and possible action on Omega Alpha Academy's Motion to Request for Compliance Hearing and To Reconsider Issue Regarding Release of 10% Withholding of School Funding.

MOTION

Motion made by Mary Gifford to go into executive session for the purpose of receiving legal advice. Motion seconded by Cassandra Larsen.

Motion passes unanimously

**BOARD CONVENES AN EXECUTIVE SESSION
AT 11:20AM**

**BOARD RESUMES GENERAL MEETING AT
11:51 AM**

President Shekerjian outlined the process for oral argument on the school's Motion to Request for Compliance Hearing and To Reconsider Issue Regarding Release of 10% withholding of School Funding. President Shekerjian stated that the purpose of the agenda item is to find reason to grant or deny the motion for hearing and in this consideration whether new evidence exists since the Board's last motion. The President stated that each attorney would have 5 minutes each to present oral argument and 2 minutes each for rebuttal.

Leo Condos, counsel for Omega Alpha Academy, stated that he had evidence to demonstrate that all employees have been fingerprinted and have in possession a fingerprint clearance card. Additionally, the accountant has provided an affidavit of payroll to compare to the fingerprint clearance card list. Mr. Condos stated that it is his position that the Superintendent is not required to possess a fingerprint clearance card. Mr. Condos stated that the school has been deprived approximately \$377,000 in school funds while Great Schools shows academic gains. He asked the Board to either set a hearing or to release the 10% withholding.

Kim Anderson, Asst. Attorney General, stated that she would not repeat her argument that was presented in written form to the Board. However, she updated the Board that the Superior Court specified in a recent Minute Entry that the Board retains its jurisdiction to entertain and adjudicate any motions or requests for hearing from the school which may coincidentally be raised in appeal. Additionally, she asked the Board to review whether the school has new information to present to the Board and focus on the fingerprint issues in making their decision.

In response, Mr. Condos state that in June the Board made the decision on the special education issue but not on the fingerprint clearance card issue. Mr. Condos asked the Board to review the information as the delay is hurting the school.

Kim Anderson, responding to questions from the Board, stated that Ms. Valenzuela is in the process of appealing her fingerprint clearance card denial and is in the same situation that was before the Board in July.

Board members stated that they did not feel that any new information was presented with respect to the remaining issues of non-compliance.

Board takes a lunch break from 12:15pm to 12:35pm

Agenda Item L-- Additional Action Items:

1. Charter School Contracts—Discussion and possible action to adopt clarifying changes and suggested revisions to the transfer charter contract.

Kristen Jordison presented to the Board the suggested revisions to the transfer contract.

MOTION

Motion made by Mary Gifford to deny the request for a compliance hearing as no new evidence was submitted. Motion seconded by Sally Kur.

Motion passes unanimously

MOTION

Motion made by Cassandra Larsen to approve the transfer charter contract specifically eliminating #17, page 6, requiring the charter representative to attend the Special Education training. Motion seconded by Mary Gifford.

Motion passes unanimously

2. Consideration to approve opening the Docket for R7-5-101, R7-5-201, R7-5-202, R7-5-203, R7-5-204, R7-5-401, R7-5-601, R7-5-602 regarding Rules for the Board.

DeAnna Foulds presented information to the Board and answered questions from the Board.

3. Consideration to approve Notice of Proposed Rulemaking for R7-5-101, R7-5-201, R7-5-202, R7-5-203, R7-5-204, R7-5-401, R7-5-601, R7-5-602 regarding Rules for the Board.

DeAnna Foulds answered questions from the Board. She stated Oral Comments would be held on December 15, 2003.

5. Discussion and possible action on adopting a process for review and follow-up on the outcomes of new charter school applicant's background and credit checks.

Kristen reminded the Board of the documentation required in the new charter school application. The purpose of collecting the documentation is to provide the Board with information to be used as one component of the decision making process on whether an applicant is sufficiently qualified to operate a charter school. Kristen outlined the existing process that the staff takes in the review and verification of this information and what information will be presented back to the Board. This process is not new but staff is aware of options this year to outsource some of this background verification with an outside firm.

4. Discussion and possible action on adopting a process for review and follow-up on charter school annual audits.

Michele Diamond outlined to the Board the proposed process for review and action on charter school annual audits. This process includes a hierarchy of actions based upon specific audit findings from minimal impact findings to medium and serious impact findings. Michele answered questions from the Board.

MOTION

Motion by Cassandra Larsen to approve the opening of the Docket R7-5-101, R7-5-201, R7-5-202, R7-5-203, R7-5-204, R7-5-401, R7-5-601, R7-5-602 for the Arizona State Board for Charter Schools. Motion seconded by Mary Gifford.

Motion passes unanimously

MOTION

Motion by Mary Gifford to approve the Notice of Proposed Rulemaking for Docket R7-5-101, R7-5-201, R7-5-202, R7-5-203, R7-5-204, R7-5-401, R7-5-601, R7-5-602 for the Arizona State Board for Charter Schools. Motion seconded by George Abarca.

Motion passes unanimously

MOTION

Motion made by Mary Gifford to accept the process for review and follow-up on new charter applicants background and credit checks. Motion seconded by Mary Lynn Kelly.

Motion passes unanimously

MOTION

Motion made by Mary Gifford to adopt the audit follow-up process as outlined in table A that addresses audit findings with the provision to remove the language "and have a sense of urgency to them" from the Medium Impact Findings Report Type. Motion seconded by Mary Lynn Kelly.

Motion passes unanimously

6. Discussion and possible action on appointing a sub-committee to review and make recommendations back to the Board on the process for the review of the performance and compensation of Board staff.

After Board discussion, a sub-committee was formed by the President to include Kimberly Mosher, Cassandra Larsen, and Sally Kur to work with staff and report back to the Board with recommendations regarding a performance and compensation review for Board staff.

Agenda Item J—Approval of Minutes:

June 9, 2003
July 14, 2003
September 8, 2003

MOTION

Motion made by Mary Gifford to approve the minutes of **June 9, 2003**. Motion seconded by Sally Kur.

Motion passes unanimously

(Ms. Larsen, Mr. Abarca, & Ms. Mosher abstained)

MOTION

Motion by Kimberly Mosher to approve the minutes of **July 14, 2003**. Motion seconded by Kurt Davis.

Motion passes unanimously

(Ms. Larsen, Ms. Gifford, Mr. Smiley, & Ms. Kur abstained)

MOTION

Motion by Mary Gifford to approve the minutes of **September 8, 2003**. Motion seconded by Kimberly Mosher.

Motion passes unanimously

(Mr. Smiley abstained)

Agenda Item K—Call to the Public

Patricia Danburg, parent and former employee of Future Development, stated the school's bus conditions were appalling. DPS had shut the buses down twice citing safety issues. The bus had caught fire after the last student was dropped off and the insurance had been cancelled in December 1996. She also stated the school was without textbooks and was currently being sued by McGraw Hill. Food services owed \$35,000. Mr. Tease avoids payments. He is worried about the kids but won't give IEP's.

Sandra Arieno, former teacher of Future Development, stated special education students were never serviced in her 3 years at the school. The school had only performed 2 fire drills, Prop 301 monies have not been paid to the teachers, staff never informed of board meetings, agendas not posted, and their grandson is a board member who is an 8th grade student.

Beverly Terrance, of Bev's Kitchen, provided school lunches in 2001. She has received 2 checks and is still owed \$16,000 by Future Development. Other caterers in the area are owed funds as well. She has filed a lawsuit against Future Development and will be in arbitration this month.

Agenda Item L—Adjournment

MOTION

Motion by Mary Gifford to adjourn the meeting. Motion seconded by Kimberly Mosher.

Motion passes unanimously

The meeting adjourned at approximately 1:30pm.

Signature

Date